

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DEBORAH D. PETERSON,
Personal Representative of the Estate of
James C. Knipple (Dec.), et al.

Plaintiffs,

v.

ISLAMIC REPUBLIC OF IRAN, et al.

Defendants.
-----X

THE ESTATE OF ANTHONY K. BROWN et al.

and

THE ESTATE OF STEPHEN BLAND, et al.

Third Party Defendants.
-----X

Case No. 10 Civ. 4518 (BSJ)(MHD)

BROWN PLAINTIFFS AND BLAND PLAINTIFFS
ANSWER TO LEVIN CROSSCLAIM AGAINST ALL THIRD PARTY JUDGMENT
CREDITORS AND JUDGMENT DEBTORS

Third-Party Defendants Joseph A. Barile, Angela E. Barile, Michael Barile, Andrea Ciarla, Ann Marie Moore, Angela Yoak, John Becker, The Estate of Anthony Brown, Vara Brown, John Brown, Sulba Brown, Rowel Brown, Marvine McBride, LaJuana Smith, Rodney E. Burns, Jeannie Scaggs, Eugene Burns, David Burns, Daniel Cuddeback, Jr., John R. Cuddeback, Daniel Cuddeback, Sr., Barbara Cuddeback, Robert Dean, Michael Episcopo, Randy Gaddo, Peter Gaddo, Timothy Gaddo, Louise Gaddo Blatter, The Estate of William R. Gaines, Jr., Michael A. Gaines, Carolyn Spears, Mark Spears, James S. Spears, William R. Gaines, Sr., Evelyn Sue Spears Elliot, Carol Weaver, The Estate of Virgel Hamilton, Gloria Hamilton, Bruce

Hastings, Maynard Hodges, Kathy Hodges, Mary Jean Hodges, Loretta Brown, Cindy Holmes, Shana Saul, Daniel Joy, Sean Kirkpatrick, Daniel Kremer, Joseph T. Kremer, Jacqueline Stahrr, The Estate of Christine Kremer, The Estate of Thomas Kremer, The Estate of David A. Lewis, Betty Lewis, Jerry L. Lewis, Scott M. Lewis, Paul Martinez, Sr., Teresa Gunther, Esther Martinez Parks, Alphonso Martinez, Daniel Martinez, Michael Martinez, Paul Martinez, Jr, Tomasita L. Martinez, Susanne Yeoman, John Opatovsky, The Estate of Jeffrey Bruce Owen, Steven G. Owen, Jean Givens Owen, The Estate of Michael Lee Page, Albert Page, Janet Page, Joyce Clifford, David Penosky, Joseph Penosky, Christian R. Rauch, Leonard Paul Tice, The Estate of Burton Wherland, Sarah Wherland, Gregory Wherland, Kimmy Wherland, Charles F. West, Charles H. West, Rick West and Sharon Davis (hereinafter “Brown Plaintiffs-Third Party Respondents”) and Alan C. Anderson, Michael Anderson, Thelma Anderson, Stephen Boyd Bland, Estate of Frank Bland, Ruth Ann Bland, James Bland, Estate of Laura Virginia Copeland, Sidney Decker, Ida Decker, Dudley Decker, Johnnie Decker, Carolyn Mudd, Ronald Duplanty, Estate of Sean F. Estler, Keith Estler, Louis Estler, Jr., Mary Ellen Estler, Estate of Benjamin E. Fuller, Elaine Allen, Ernest C. Fuller, John Gibson, Holly Gibson, Maurice Gibson, Estate of Michael Hastings, Joyce Hastings, Estate of Paul Hein, Christopher Hein, Jo Ann Hein, Karen Hein-Sullivan, Victor J. Hein, Jacqueline M. Kunysz, Estate of John Hendrickson, John Hendrickson, Tyson Hendrickson, Deborah Ryan, Estate of Bruce Hollingshead, Melinda Hollingshead, Renard Manley, Estate of Michael Robert Massman, Nicole Gomez, Angela Massman, Kristopher Massman, Lydia Massman, Patricia Lou Smith, Estate of Louis Melendez, Zaida Melendez, Douglas Jason Melendez, Johnny Melendez, Johnny Melendez, Jr., Estate of Michael Mercer, Sarah Mercer, Samuel Palmer, Robin Nicely, Estate of Juan C. Rodriguez, Louisa Puntonet, Robert Rucker, Estate of Billy San Pedro, Cesar San Pedro, Sila V. San Pedro,

Guillermo San Pedro, Javier San Pedro, Thurnell Shields, Emanuel Simmons, Estate of James Surch, Patty Barnett, Will Surch, Bradley Ulick, Jeanette Dougherty, Marilyn Peterson, Estate of Eric Walker, Tena Walker-Jones, Ronald E. Walker, Ronald Walker, Jr. Galen Weber, Estate of Obrian Weekes, Anson Edmond, Arnold Edmond, Hazel Edmond, Wendy Edmond, Faith Weekes, Ianthe Weekes, Keith Weekes, Meta Weekes, Estate of Dennis Lloyd West, Kathy West, Estate of John Weyl, Kelly Bachlor, Robin Brock, Morgan W. Rowan, Sharon J. Rowan and Nelson Weyl (hereinafter “Bland Plaintiffs-Third Party Respondents”), by their undersigned attorneys for their Answer to the Crossclaim filed by the Levin’s against all Third Party Judgment Creditors and Judgment Debtors allege as follows:

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 65 of the Levin Crossclaim and therefore on that basis deny each and every allegation.
2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 66 of the Levin Crossclaim and therefore on that basis deny each and every allegation.
3. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 67 of the Levin Crossclaim and therefore on that basis deny each and every allegation.
4. Paragraph 68 states conclusions of law as to which no response is required, and to the extent a response is required, the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents deny the allegations.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 69 of the Levin Crossclaim and therefore on that basis deny each and every allegation.
6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 70 of the Levin Crossclaim, and therefore on that basis deny each and every allegation except that the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents admit that on June 21, 2011 the Honorable Robert P. Patterson Jr. entered a Rule 54(b) Judgment and Order.
7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 71 of the Levin Crossclaim and therefore on that basis deny each and every allegation.
8. Paragraph 72 states conclusions of law as to which no response is required, and to the extent a response is required, the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents deny the allegations.
9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 73 of the Levin Crossclaim and therefore on that basis deny each and every allegation.
10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 74 of the Levin Crossclaim and therefore on that basis deny each and every allegation.
11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 75 of the Levin Crossclaim and therefore on that basis deny each and every allegation.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 76 of the Levin Crossclaim and therefore on that basis deny each and every allegation.

Levins Prayer for Relief

13. Paragraph 1 of the Levin Crossclaim Prayer for Relief states conclusions of law as to which no response is required, and to the extent a response is required, the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents deny the allegations.
14. Paragraph 2 of the Levin Crossclaim Prayer for Relief states conclusions of law as to which no response is required, and to the extent a response is required, the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents deny the allegations.
15. Paragraph 3 of the Levin Crossclaim Prayer for Relief states conclusions of law as to which no response is required, and to the extent a response is required, the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents deny the allegations.
16. Paragraph 4 of the Levin Crossclaim Prayer for Relief requests relief as to which no response is required, and to the extent a response is required, the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents deny the allegations.
17. Paragraph 5 of the Levin Crossclaim Prayer for Relief states conclusions of law as to which no response is required, and to the extent a response is required, the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents deny the allegations.

18. Paragraph 6 of the Levin Crossclaim Prayer for Relief requests relief as to which no response is required, and to the extent a response is required, the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents deny the allegations.

19. Paragraph 7 of the Levin Crossclaim Prayer for Relief requests relief as to which no response is required, and to the extent a response is required, the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents deny the allegations.

AFFIRMATIVE DEFENSES

20. The Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of insufficient service of process.

21. The Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of laches.

22. The Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of estoppel.

23. Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of failure to state a claim, as the Levins have not stated facts sufficient to constitute a claim or cause of action against the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents.

24. Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of waiver.

25. Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of failure to mitigate.

26. Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of unjust enrichment.

27. Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of lack of damages, as the Levins have not and will not suffer any injury or damage as a result of action taken by the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents.
28. Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of other causes in that any damages the Levins did suffer were caused by independent, intervening events unrelated to the Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents.
29. Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents assert the affirmative defense of *in pari delecto*.
30. The Brown Plaintiffs-Third Party Respondents and Bland Plaintiffs-Third Party Respondents reserve the right to assert any affirmative defenses and counterclaims that may become apparent after additional discovery or otherwise.

Dated: September 30, 2011

HEIDEMAN NUDELMAN & KALIK, P.C.

/s/Noel J. Nudelman

Noel J. Nudelman
1146 19th St. N.W., 5th Floor
Washington, D.C. 20036
Telephone: 202-463-1818
Facsimile: 202-463-2999

*Attorneys for the Brown Plaintiffs-Third
Party Defendants and Bland Plaintiffs-Third
Party Defendants*